The Walker Report: *Brutality In Chicago*

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The Buckeye **BARRISTER**

VOL. V, NUMBER 2 — THE OHIO STATE UNIVERSITY • COLLEGE OF LAW — WINTER, 1969

Two Lectures Highlight Past Quarter

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Topic Of Arant Lecture Is Professional Responsibility

On Thursday, February 6, 1969 at 8:00 p.m. William Pincus delivered the 1969 Dean Herschel Arant Memorial Lecture in the law school auditorium. This lecture series is held annually in honor of Dean Arant, who was dean of the College of Law from 1928 until 1939. William Pincus, this year's lecturer spoke on "The Professional Responsibility of the Lawyer." He is a graduate of Brooklyn College and George Washington University Law School and joined the Ford Foundation in 1957. In June of 1968, Pincus was named head of a newly created Council on Legal Education for Professional Responsibility by the Ford Foundation.

To an audience composed primarily of the faculty and law school seniors, Mr. Pincus read his prepared text. The speech did not deal with the responsibility of a lawyer to his private clients, but rather what Pincus felt is the peculiar responsibilities of lawyers to the rest of society due to their training and profession. This, he said, involves more than a set of norms for individual clients but a responsibility for justice and injustice and a duty to improve the social health of our environment.

His Comments

Recent social upheavals are causing the public to demand action by the professions, which heretofore have been selfcontained. The primary reform needed is for the extension of legal services. *Gideon v. Wainwright* applies only to criminal cases; it is hoped that the doctrine soon will be extended into civil cases. The Federal Office of Economic Opportunity currently is spending $40 million per year for legal services for the poor and there are also funds for welfare clients through HEW grants, but a full commitment is needed from the profession itself.

In an adversary system, counsel must be freely and easily available. There is a need for increased defender services in criminal cases. Progressive defender statutes are needed in

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LAW DAY ACTIVITIES

The College of Law again this year will sponsor a series of activities in connection with the celebration of Law Day U.S.A. on May 1.

The Law Day Recognition Dinner will be held in the West Ball Room of the Ohio Union at 8:00 p.m. on Friday, April 25. The program following dinner will include the presentation of student awards and an address. Tickets are $2.75 per person for alumni, faculty and students.

The Moot Court Honor Hearing will be held at 10:00 a.m. in the Moot Court Room of the law building on Saturday, April 26. The Moot Court Governing Board has chosen "The Legality of the War in Vietnam" as the topic.

The Barristers Ball will be held the evening of Saturday, April 26, at the Imperial House North on Morse Road. The program includes a cocktail hour at 7:00 p.m., dinner at 8:00 p.m., and the dance from 9 p.m. to 1 a.m.

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The head of the Ford Foundation's Council on Legal Education for Professional Responsibility, William Pincus, presented the 1969 Arant Lecture sponsored by the College of Law. Shown here is Mr. Pincus in the Law Auditorium.

Ohio State in the past few years has consistently been represented by top-quality moot court teams. The 1969 National Moot Court Team is pictured above, and the members are, from left, Dave Martin, Rick Ashby and James Turner. Mark O'Connor was absent when the picture was taken.

NATIONAL MOOT TEAM IN NEW YORK FINALS

The 1968 National Moot Court Team managed to Squeeze into the National finals in New York; this was the first O.S.U. team to go to the New York City Bar's Moot Court Final round since the 1965 team. Unfortunately, the team did not add to the College of Law's several election year (1960 and 1964—Democratic years) national championships.

The case was George Ivan Joseph v. U.S. wherein a private of the U.S. Army sought to enjoin the Secretaries of the Army and Defense from sending him to Vietnam. Pfc. G/I. Joseph alleged that the war was "immoral, illegal, and unconstitutional;" the U.S. District Court (Middle District of Bliss) dismissed the complaint on the grounds that it raised questions "political in nature."

On the Petitioner's brief were James Turner and David Martin; for the Respondents were Richard Ashby and Mark O'Connor. Both teams were, as competition rules require, prepared to argue the other side of the case on oral argument.

The regional Round was held for the first time in Cleveland with an all Ohio Region. Eight Ohio law schools enter two teams each. The Cleveland Bar's young Lawyer Committee was an enthusiastic and efficient sponsors of the tournament. Numerous judges from various benches, including U.S. District Court, the Court of Appeals of Cuyahoga County, the Common pleas court of Cuyahoga County, and Cleveland Municipal Court, and many trial and appelate practioners provided informed and challenging panels for the arguments.

Case Western Reserve swept the Regional Honor by coming in number one and two in the tournament. The OSU team of Ashby and O'Connor finished third; thanks to the competition's rules which provide that two teams from each region (with seven or more schools participating) can go to the national finals and those teams must be from different schools, the third place team from OSU qualified for the New York Finals.

In the regional round both OSU teams lost to the same Case Western Reserve team which eventually placed number one in the region. Turner and Martin overcame Capital

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15% Decrease In Enrollment

At the start of the school year, there was an overall decrease in enrollment from the previous year of about 15%. In addition, there were about 70 students admitted who are known to have been unable to complete registration because of the draft. However, it is the feeling of the school that the overall quality of the student body has not been reduced even though enrollment is lower.

The enrollment figures on a class by class basis as of the start of fall quarter are as follows:

1st Year Class	
1967-68	187
1968-69	168
2nd Year Class	

(Continued on page 3)

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Judge Traynor At Law Forum

The guest speaker for the 1969 Law Forum Lecture Series sponsored by the College of Law was Roger J. Traynor, Chief Justice of the Supreme Court of California. Justice Traynor received his education at the University of California where he also served as Professor of Law from 1929 to 1940. After serving for a short time as the Deputy Attorney General for the state of California, he served as an associate Justice on the Supreme Court of California from 1940 to 1964, at which time he became Chief Justice.

His Remarks

The topic of the February 10th and 11th lectures was "Harmless Error." There used to be an age of technicality where almost every error was considered harmful, even leaving out the "n" in "larceny" in the complaint. Now there are many harmless error statutes to the effect that a party should not be deprived of rules or procedures essential to a fair trial. The rule is essentially a common sense rule to avoid clogging the courts, and it must operate in harmony with the other rules.

The harmless error rule applies only to a party's rights as a litigant; the error must affect the constitutional right to a fair trial. The Federal requirement is that the error must not have affected the substantial rights of the party. As to the burden of proof, if it is an error in the etiquette of the trial or procedure it is presumed harmless; if the error violates the rights of a litigant it is presumed harmful.

One standard used is that justice is equivalent to the correct result. In other words, if the correct result has been reached, any error was harmless. However, the appellate court should not reconsider the merits; to do so would not be within accepted standards of fairness. On appeal, the court is limited to the mute record without the opportunity to see and hear the witnesses live. In many cases an appellate court cannot determine with accuracy whether the correct result was reached or not, so that is not a workable standard for judg-

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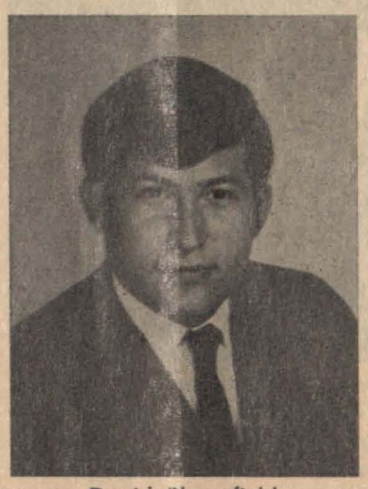
Barrister Opinion

ACCOMPLISHMENTS OF SBA IN 1968-69

After the conclusion of the College's Law Day activities the first of May, the leadership of the student body (de jure if not de facto) in the form of the Student Bar Association will change hands. Since the majority of the members of the SBA Executive Committee are seniors, new leaders will have to emerge. It would seem appropriate at this time to assess just what the present group has accomplished. Outside of the SBA President, the duties of the committeemen are fairly clearly defined and essentially ministerial. The impetus for new programs or needed changes must originate with the Student Bar President.



David Bloomfield

David Bloomfield was elected SBA President last spring. His first task was the appointment of the various committee heads, and these selections (including myself) were made primarily from among his personal friends. However, that was to be expected and does not mean that those selected were necessarily incompetent.

As far as earth shaking accomplishments go, there have not been any; but it was not expected that there would be any and effecting major changes in policy is not the primary purpose of the SBA. Its most useful function is to provide a means of redress for the minor and usually non-academic grievances which annoy the students in particular. As a channel for such complaints, the SBA serves a valuable purpose. In fact, one of Bloomfield's more concrete campaign promises was to get a men's restroom on the top floor of the law building so that the affected students would not be forced to walk down to the basement everytime from the library. It is my understanding that such a change has been included in future plans, although I doubt if any present student will ever use it. There is an obvious form of nonviolent protest which might speed things up a bit, but such a use of the corners in the library is probably some kind of an honor code violation.

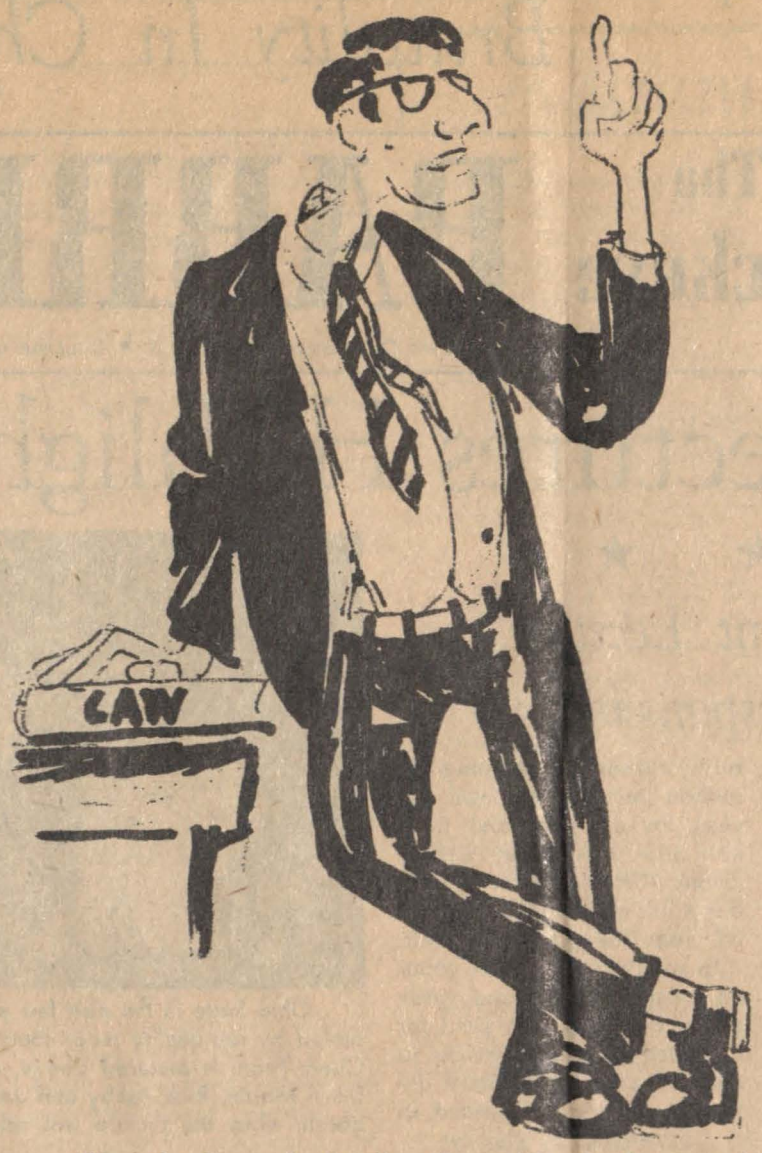
To his credit, Bloomfield has always made himself available for student complaints and has seen that they were brought to the attention of the appropriate person. The most obvious example of this was the postponement of the start of winter quarter classes from the day after New Years to the following Monday. No one would have come back until Monday anyhow, but at least this way we didn't have to make up the classes.

Will Hoyt and his placement committee have done an outstanding job this year (although it seems that the majority of the students would rather complain than take advantage of these programs) and Ed Bacome has done a fine job with Law Day. It is to Bloomfield's credit that he appointed such people, but I am sure he will agree that the credit for these programs belongs to the committee chairmen.

Other Activities

In his administrative functions, Bloomfield has done an adequate job, but has been hampered to a certain extent by his ambition. Besides SBA, he is Chief Justice of the Student Court, involved in legal clinic work, an officer of Phi Delta Phi, a huckster for a bar review course, and has political ambitions. In each one of these positions there was an opportunity for a great deal to be accomplished beyond what was necessary, but Bloomfield was not able to do this due to the demands on his time. The opportunities for making the SBA a more viable organization are numerous; wholesale reform and organization of the Student Court system on campus is sorely needed; as much can be done in legal clinic as one wants; the legal fraternities here are suffering special problems due to the draft situation; and politics is a time consuming hobby. David had the capability to have been a real leader in any one of these areas, but not in all of them at once.

Being president no doubt has hurt his grades in relation to what they were or could have been, but the assumption of most student leaders is that their activities record and experience along with, hopefully, recommendations of the administration will more than offset any damage done to the accume. Bloomfield also has been smart enough to make all major decisions the decisions of the executive committee and not his alone. It is always nice to have someone in bed with you if and when you make a mistake.



"Now the dictum in the dissenting opinion in the case of X v. Y taken in light of the overall policy of . . ."

Buckeye Barrister

The Buckeye Barrister is also under the general auspices of the SBA as well as the Alumni Association, so perhaps some attempt at self analysis should be made here. The Barrister ordinarily comes out once each quarter during the regular school year. The financial means, however, are available for more frequent publication and many similar publications do come out more often. This is due mainly to the format.

The Barrister essentially covers only events in the law school and the university in general that are of interest to the students and the alumni. It also serves in a limited way as an organ of student opinion and as a means for alumni to keep track of each other. It is essentially designed to serve as a "newsy" publication. No attempt is made to speak out on national issues and no attempt is likewise made to present articles on specialized areas of the law not of general interest. Law Reviews, the ABA, the Ohio Bar News and other publications and organizations are better suited for that role. Likewise an attempt is made not to express any particular political view or philosophy.

The Barrister serves both as a student and an alumni paper. Under the present format, it is not possible to put out a paper more than three or four times a year. For the most part, Dean Kuhfeld and David Bloomfield have given the Editor a completely free hand, and that is the only way I would have it. If the present Barrister is not serving the functions that the school has in mind, an appropriate format change should be made.

THE BUCKEYE BARRISTER
And Alumni Law Record
Published For The Students And Alumni Of
The Ohio State University College of Law
1659 North High Street, Columbus, Ohio 43210

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Speaking Out On The Curriculum

by David Bloomfield
SBA President

To meet the growing demands of our times the College of Law needs to expand its curriculum. While the College offers many courses in the fundamentals, there are voids in many areas. The school lacks courses in the areas of ethics and proverty law and is presently deficient in its moot court program.

The College's offering of ethics is a sterling example of the law school's inadequate curriculum. Concededly, the whole topic of professional ethics is in the "gray area." But this is no excuse for having such a valuable and essential subject relegated to the status of the non-accredited haphazard treatment that it presently receives. If a topic is so important that the Supreme Court of Ohio requires successful completion of it in order for a prospective applicant to be certified for the bar exam, surely it is important enough to receive the status of an accredited course at the College of Law.

The emerging area of poverty law is given cursory (if any) treatment in the curriculum. It is possible to pick up some of this vast subject matter in Legal Clinic and in few other courses if one is lucky. But there is no assurance that one will receive any instruction in this area during his law school career even though the area of poverty law directly employs thousands of attorneys. This is a new and rapidly expanding part of the law which is given second-class status in the Law school. The student interest abounds in this area and it goes unfulfilled within the curriculum. Therefore, many students spend a considerable amount of their time floundering with the problems of poverty law. This is a deficiency which the College should satiate in order to keep in pace with the changing attitudes among law students today.

Also, it is felt by many that it is not worth a student's time to work on non-credit courses when he might spend his time more valuably on credit courses. Thus the moot court program is looked upon with disdain by many of its captives. It is enough to be subjected to the student advisor who may or may not do an adequate job counselling his freshman captives. Fate decides whether the freshman group will have a good, bad or mediocre student advisor. Yet the captive's entire feelings toward the moot court program are molded by this fateful chance in the personage of his advisor.

If the College feels that the moot court program is worthwhile, which I personally do, then the format should be al-

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Dean Rutledge Returns From 6 Month Absence

The Ohio State University Law School was well represented in Australia for the latter half of 1968. Dean Ivan C. Rutledge spent six months of last year in Australia as a researcher and lecturer under the aspices of the Fulbright-Hayes program, an American tax-supported program designed to promote international understanding.

Dean Rutledge's sponsor during his leave from the Law School was the Australian-American Education Foundation, a partner of the State Department officials in the United States who administer the Fulbright-Haye's program. During most of his stay, the Dean lectured at the University of Queensland at Brisbane, a palm tree studded city on Australia's east coast boasting a Florida climate.

Dean Rutledge

At the University, Dean Rutledge conducted fortnightly seminars in labor law and constitutional law. The labor seminar drew participants from the law faculty at the university and from local labor union, while those attendng the constitutional law seminar were members of the University's law, economics, history and political science faculties. In his teaching, Dean Rutledge stressed comparison of Australian and American law. In the classroom some mention was first made of American law and then the corresponding Australian law was held up for study and criticism by the seminar participants. Mimeographed copies of Dean Rutledge's research were distributed to members of the group prior to each discusion.

At the University of Queensland, Dean Rutledge also delivered some lectures in constitutional law to members of the undergraduate law student body. In addition, he visited and lectured at the University of Sidney, Melbourne University, the University of Papua and New Guinea, Monash University, the University of Tasmania and the Australian National University.

During his stay he was able to travel to the major areas of the Australian continent. Although the population of Australia is only that of the State of Ohio, it has a land area approximately two-thirds that of the United States.

While in the island territory of Papua and New Guinea north of Australia, Dean Rutledge visited the torts class at the University of Papua and New Guinea and conducted a discussion on the subject of fixing fees in personal injury suits. Then he lectured to a general meeting of the undergraudate student body on the topics of scholarship loans and grants in the United States and student unrest at American institutions of learning.

On their return to the United States, the Rutledges visited Hong Kong, Taiwan, Japan and Hawaii. During stops in Tokyo and Honolulu, Dean Rutledge attended informal alumni meetings with graduates of Ohio State.

The Rutledge family returned to Columbus from their busy sojourn shortly before the Christmas holiday, but Dean Rutledge plans to follow up, in several publications, his research done in Australia. He has already submitted an article to the *Municipal Judges' Journal* and is completing an article for the spring edition of the *University of Queensland Law Journal*. He also plans future writing on the topic of the extraordinary writ of certiorari in Great Britain and the commonwealth countries and on compulsory arbitration of minimum wage schedules, which was his major area of research concentration while in Australia.

International Law Club Very Active This Past Year

The International Law Club during the last two quarters has conducted an active program of afternoon meetings featuring speakers dealing with various problems of international affairs.

Speakers have included: Professor Paul Underwood of the Department of Journalism on: "Eastern Europe and the Czech Crisis;" Professor Andrew Axline of the Political Science Department on: "The United States—and Interventionest Power?"; David McAdams, a Peace Corps administrator on: "Peace Corps Operations in West Africa;" Professor Terry McCoy of the Political Science Department on: "US Intervention in Latin America;" Professor Loyal Gould of the Journalism Department on: "The Dominican Republic Crisis;" and Larry Heinzerling, an Associated Press correspondent on: "The War in Biafra."

International Law Club meetings are held in an informal atmosphere over beer and cokes in the Ohio Union Tavern. The club's officers are Ben Rose, President, Jeff Glen, Vice President, and Alan Smith, Treasurer.

First Person Plural

by Greg VanGundy
Editor in Chief

The present practice of the College is to post test grades according to each student's assigned examination number instead of disclosing the student's name. Such a system is designed to prevent students from knowing each person's grade but to still allow each student to see where he stood on the test relative to everyone else. This arrangement is generally effective in achieving that result.

The reason behind this practice is to avoid embarrassing students who for one reason or another feel that they did not do as well as they should have in the inherently competitive nature of class ranking. A few schools have eliminated the practice of class ranking altogether, but it is still used in a majority of the law schools and in other comparable academic situations. However, it is questionable whether class ranking should produce embarrassment as a side effect.

Brushing aside the usual arguments concerning the pursuit of knowledge for knowledge's sake, there is still the fact that in a very real sense, law school is a trade school for the training of lawyers just as mechanics or anyone else is trained. And the best lawyers are going to get the best jobs, and their proficiency in the training school is a good indication of "bestness". Greed or ambition is not hard to understand as a motivation for getting good grades. However, there is another, more interesting aspect to this—the social importance of good grades.

In modern America success in education somehow is much superior to success in other endeavors. A good machinist or printer or tradesman or athlete is a beautiful thing to watch in action. They have each developed their individual abilities to a high degree of perfection, and others speak admiringly of their natural talents. However, these talents are regarded as something extra, which are not expected to be possessed by the ordinary person. But when someone achieves a higher degree of academic excellence than another, that person and society has a tendency to regard it not as a special talent possessed by the other guy, but as a defect in his own makeup. It would seem that academic excellence is a God-given talent which should be respected like any other special talent.

* * *

A reoccuring happening in law school is the stealing of other student's notebooks, especially before examination time. It is bad enough that a person resorts to this practice to help himself, but the resulting harm to the owner of the books is even more revolting. This practice has always been present and I see no reason to expect that it will not continue in the future. But at least if you are going to steal someone's notes, xerox them and see that the notebook is returned. Helping yourself is one thing; hurting someone else is another.

* * *

Periodically on the walls of the law school the "Scarlet Letter," the law school's answer to underground newspapers appears. Started by a present senior in his freshman year, these mimeographed materials mysteriously appear somehow after some event worthy of comment has occurred. No one is safe from the wit of its author, and a certain distinction attaches itself to one deserving of coverage. The publisher has been offered free rein in the Barrister, but the delay in our publishing deadlines would deprive the material of its timeliness, which is one of its most important quality.

In recent issues, the quality has decreased somewhat, due no doubt to the growing infrequency of the author's visits to the law school, but it still remains a tasteful and refreshing addition to the academic life. It is hoped that a suitable staff is being trained to take over after the founder's departure from school this spring.

Enrollment—

(Continued from page 1)

1967-68	175
1968-69	120
3rd Year Class	
1967-68	150
1968-69	147

Fourteen seniors graduated at the end of the Fall Quarter, and the college has now lost 17 students who enrolled at the Fall Quarter to the military. A number of the students were just being reclassified and called for physical examinations last fall. The total enrollment for the Winter Quarter was 401, the smallest in some years.

Students are constantly being drafted out of school still, and by next year the enrollment will probably be even smaller since the present senior class is the last class with regular student deferments.

Con—

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again turn toward God, they will realize it is wrong by his laws, not of man's to not treat all people as their equals. The country will then and only then, accomplish that object for which much of the recent civil rights legislation has sought to attain.

O.S.U. PARTICIPATES IN C.L.E.O. PROGRAM

More than 30 law schools are joining in summer programs to prepare about 450 minority group students for law school next fall. Four law schools in the Ohio Valley Region are combining to sponsor an intensified six-week program in law study this summer for minority group college graduates interested in legal careers.

The four sponsors are the law schools at the Universities of Cincinnati, Kentucky and Louisville, and Ohio State University. The program is to be held at the University of Cincinnati College of Law for a six-week period commencing June 23rd. The Ohio Valley program is one of eight funded by the Council on Legal Education Opportunity (CLEO) as part of a nation-wide effort to increase the number of law students from minority groups, particularly Negroes.

The director of the Ohio Valley program is Associate Professor John J. Murphy of the College of Law at the University of Cincinnati.

CLEO was established late in 1967 by the American Bar Association, the Association of American Law Schools, the National Bar Association, and the Law School Admission Test Council. These groups conducted yearlong discussions on ways to increase the number of lawyers from minority groups in the United States.

"The number of Negroes and other minority group members now practicing law is exceeding small," Professor Murphy said. "For example, a Howard Law School study of the Negro lawyer in America shows that there are approximately 121 Negro lawyers in the State of Ohio which has a bar of over 12,000 lawyers. In Cincinnati there are approximately 29 Negroes out of the 1,377 lawyers in the City. Other surveys show similar satistics in cities and states in all parts of the nation."

Murphy pointed out the strong need for expanding the number of Negroes in the practice of law. He noted the vital role of the lawyer in the assertion of equal rights and opportunities for minority group and in rendering advice and counsel in disadvantaged communities. "Furthermore," he added, "legal training in this country has traditionally been an important avenue for entry into politics, public administration, and management and initiation of business.

"This need will not be satisfied unless law schools attract more Negro college graduates as applicants. In the 21 law schools in the Midwest, 16 have less than 9 Negro law students and 2 have none. Out of the 1,563 law students at the Universities of Cincinnati, Kentucky, Louisville and Ohio State, only 15 are Negroes."

The national effort to meet this need will center on programs such as the Ohio Valley program to be held at Cincinnati's law school this summer. The purposes of the program are: (1) to raise the legal profession as a priority career choice for Negro college seniors and graduates; (2) to act as a clearinghouse for placement of Negro applicants at

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University Court: The Right To A Fair Hearing

Kron Charged With Campus Election Fraud

On October 21, 1968, Robert Leonard and Jeffrey Fromson, the prosecutors of the University Court of the Ohio State University, filed an information statement with the clerk of the University court charging that Daniel Kron, a student, gave false information to an election official and attempted to conspire or perpetuate fraudulent manipulation of the 1968 O.S.U. May Queen Election in violation of rules promulgated by the student assembly, the undergraduate student governing body at Ohio State University.

The University Court is currently composed of three undergraduate students, two senior law students and two junior law students, with a senior law student who has had a course in evidence presiding as Chief Justice. The court hears mainly appeals by students who have received traffic tickets from the campus police, appeals from lower commission decisions for infractions of dormitory and fraternity rules, and violations of the student assembly's rules.

Ordinarily the cases are prosecuted by two student prosecutors and are defended by two student defenders, all senior law students. An attempt is made generally to follow the practices of an Ohio common pleas court and the Uniform Rules of Evidence are followed as much as practicable. The prosecutors, defenders and the clerk are all paid by the Student Judicial Board. In this instance, Kron was represented by Jerry Weiner, prominent Columbus trial lawyer.

Several preliminary motions were filed by the defense including: motion to dismiss information for lack of bringing action within the proper time (overruled); motion to dismiss information for lack of probable cause (overruled); motion to dismiss information due to statutory vagueness and overbreadth (overruled); motion to dismiss information due to lack of notice to defendant (overruled); motion for complete disclosure of witnesses, evidence, and testimony (granted); motion for a bill of particulars (granted); motion to clarify information (granted); and motion for court to reconsider jurisdictional decision — previous decision by the University Court that it had jurisdiction to hear and decide this case—(denied). Memorandums in support and in opposition to these motions were submitted and written opinions were issued by the court when requested.

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★ ★ ★ REVISION OF STUDENT COURT SYSTEM UNDERWAY

By Spring Quarter, it seems likely that the University Student Body will finally, after years of waiting, have the benefit of a reasonably well-organized Student Judicial System to handle the many relatively minor offenses which the University Administration has so far seen fit to delegate to students. Much of what has been good of the Student Judicial System so far has been due to the thoughtful efforts of law students, and when the new system is finally adopted by the Council on Student Affairs, much credit will be due both present and past generations of law students. Because of their long and often thankless effort, future generations of O.S.U. students will be assured their right to a fair hearing in such cases, with many procedural safeguards not previously available.

The history of this effort has not been marked with any remarkable progress. It began in 1965 with the acceptance by the Council on Student Affairs of an Ad Hoc Committee Report setting up the present system, and establishing a Student Judicial Board to continue work on the system and to revise it as necessary. The chairman of the Judicial Board was to be a law student; one other member was to be a law student, and the Advisor was to be a member of the law faculty.

Formal revision has been slow in coming. During the past few years, however, serious efforts have been made by the Student Judicial Board to clarify the system and to codify the procedural rules appropriate to such a system. A *Handbook for the Student Judicial System* was prepared under the Chairmanship of Mike Hickey, a 1968 law graduate, which seemed to provide what was needed. It was to be presented to the Council on Student Affairs early this year, and made operative as soon as possible. Plans were laid to hold training sessions for all the administrators and student officials who would be responsible for making the system work. When Mike Hickey graduated, Bob Parsons became Chairman of the Student Judicial Board. He was drafted during the summer, and the mantle of leadership fell to the new Chairman Curt Griffith, and to Ben Hale, both of whom are second-year law students. The Advisor to the Judicial Board is Dean Joanne Wharton of the College of Law.

MONKEY WRENCH THROWN IN

At the first meeting of the Student Judicial Board during fall quarter, a monkey wrench was thrown into the plans when the Vice President of the Undergraduate Student Body indicated that the President of that Body would the following week appoint the seven members of a new undergraduate court which had been entirely uncomtemplated in the SJB's *Handbook,* and unknown to the other members of the Student Judicial Board. This new "court," which was created by an undergraduate Constitution passed by the Board of Trustees of the University last spring, did not reasonably fit anywhere in the jurisdictional system contemplated by the Student Judicial Board report, nor did those with the appointive power have any remarkable insight as to how it would fit into the system—only the political acuity to be jealous of the power to appoint seven "judges" to a prestigious-sounding "court." The problem was compounded by the membership on the Board of both the President and Vice President of the Undergraduate Student Body. As might be expected, the resolution of this problem was neither easy nor immediate. It was the end of Fall Quarter before cooler heads prevailed, and the recalcitrant undergraduates realized the basic error of their positions and agreed to forego the appointment of the new "court" until steps could be taken to amend the Undergraduate Constitution to do away with it. But by that time other problems loomed.

OTHER PROBLEMS

The other problems were partly the result of the new look being taken generally at the entire discipline structure within the University. Questions were raised which broadened the task of the Board, such as: 1) Do students really *want* a Court composed entirely of students to be their final appeal from lower commissions? 2) *Should* such a Court (University Court) indeed have such final authority? 3) Should the judicial system serve as a means of orderly transmittal of grievances concerning the legality of University rules from the student body to the Administration? 4) Should graduate students be included in the system? After much discussion with the various interest groups and with the very helpful counsel and effort of Dr. James Robinson of the Political Science department, all these questions have finally been answered in the affirmative. In the final SJB Report, which hopefully will be before the Council on Student Affairs for approval by the time this comes to press, the University Court will be the final authority in all cases within the system (those cases which carry a possible sanction of lesser severity than a mark on a student's permanent record), with *no* appeal to any higher body on the merits of the case. If, in the Court's opinion, however, the Rule involved is illegal under the Student Constitution or *any higher law* (e.g. Ohio statutes, the Ohio Constitution, federal statutes, or the U.S. Constitution), the Court may order any student-promulgated rule rescinded. When the rule in question has been promulgated by or subject to the approval of a non-student University body (e.g. Faculty Council, Board of Trustees, etc.), the Court may hold any sanction imposed by its decision in abeyance while it refers the rule (not the case) to the Council on Student Affairs, along with its opinion concerning the illegality of the rule. CSA will forward the opinion to the appropriate administrative body for consideration and action within sixty academic days. If action has not been taken and communication concerning such action made to the Court by that time, the Court will dismiss the sanction. The merit to this, of course, is that it will apply real pressure upon the administrative bodies which promulgate the rules to reply promptly to the well-considered opinions of the Court. The decision of the higher body shall, of course, be final. In the extremely unlikely event that University Court should render an ill-considered opinion declaring a rule illegal that was clearly beyond attack, the answer should be easy to draft. It seems eminently more desirable that legitimate questions be presented to the inner councils of the University via this orderly process, rather than by screaming headlines in the *Lantern,* by demonstrations, or by civil litigation.

UNIVERSITY COURT

Given such responsibility, the quality of membership on the University Court is critical. It is in many respects an excellent court, largely due to the influence and leadership of its law student members. The guarantees of fairness and rights of due process envisioned for the rest of the system by the SJB report are already substantially in effect in University Court. According to Chief Justice David S. Bloomfield, the Rules of Procedure of University Court grant far more procedural safeguards to a defendant before the Court than do similar rules at other leading campuses.

Unfortunately, in order to structure the Court so as to satisfy the Council of Graduate

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Due Process Requirement In Student Courts

The increase in the past two ears of student disorders on our nation's campuses has raised new questions as to what the nature of a student's rights is in college disciplinary actions. The recent disorders have mainly involved protest demonstrations concerning the Vietnam war and alleged racism in the colleges, and there have been many problems as to the extent of first amendment protection.

The charges in such cases have usually been under general college regulations such as the following:

> 1. "Individuals and organizations must consider themselves obligated at all times and all places to conduct themselves, individually and as groups, as to reflect only cerdit on the University" The Ohio State University, Student Handbook Rules and Information 8 (1968); or
>
> 2. "It is taken for granted that each student . . . will adhere to acceptable standards of personal conduct; and that all students . . . will set and observe among themselves proper standards of good taste . . ." General Catalog of the University of California at Berkeley.

Such regulations have been coming under increasing attack under the due process principles of vagueness and overbreadth. In addition, though, there are substantial questions concerning what rights a student has in the administrative disciplinary proceedings themselves.

In order for the proceedings to be subject to federal constitutional requirements, in most cases there must be state action within the meaning of the fourteenth amendment to the federal constitution. The fact that a private university performs a public function in educating persons does not render its conduct as under color of state action so as to be subject to the fourteenth amendment. *Grossner v. Trustees of Columbia University in the City of New York,* (July 9, 1968), 287 F. Supp. 535, 549. Tax supported state institutions clearly act under color of state action, and it is equally well settled that by seeking admission to and obtaining the benefits of attending a college or university the student agrees that he will abide by and obey the rules and regulations promulgated for the orderly operation of that institution and for the effectuation of its purposes. *Wright v. Texas Southern Uni-*

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New Open Housing Rule Is Campus Controversy

Pro: O.S.U. Should Stop Discriminatory Housing

Whether a landlord *ought* to have a right to make a discriminatory choice is no longer the relevant question. State and federal statutory and decisional law all make housing discrimination illegal. The legislatures and courts have already made the choice for the landlord; it is against national and state policy for the landlord to discriminate, and by the same token it is also against national and state policy for prospective tenants to aid and encourage the process of discrimination by insisting that they somehow have a right to make a discriminatory choice with reference to their neighbors. Hence the question whether a prospective tenant ought to have the right to make a discriminatory choice is no longer relevant.

Unfortunately the law is not enforced as strongly as it might be. The survey taken by our committee showed that although illegal, 66% of the housing in the University area was not open to black students *because* they were black. *Enforcement* of existing law is what the proposed rule is addressed to. It does not attempt to make new policy decisions or new law. These have already been made by the legislatures and the courts. It attempts only to strengthen enforcement of the law.

Should the University involve itself in enforcing the law? The purpose of the University is to educate its students. It attempts to give students the best education it can. The quality of a person's educational opportunity is significantly affected if he is forced to live in segregated housing. Segregated housing patterns culturally isolate the races from each other. Neither the discriminated against minority nor the white students living in discriminatory housing have an opportunity for exposure to the other groups' ideas, attitudes and way of thinking. Fostering an interplay of cultural ideas is crucial to the educational interest of the modern university. Evidence that this interplay does not occur at Ohio State can easily be gathered by observing the Union at lunchtime. Blacks sit with each other. Whites sit with each other. Foreign students sit with each other. And if a religious survey were taken, it might reveal a similar pattern.

How should the University involve itself in enforcement? Given the strong interest of the University in insuring open housing for its students, what is the best way to achieve open housing? One thing we have learned from experience with enforcement methods of state and federal law is that we cannot rely on individual complaints to change segregated housing patterns. Case by case adjudication, even against a single landlord, takes a long time to make a dent in an almost universal pattern. What we need is the sort of rule which will effect a wholesale change on the pattern of discrimination against the University's students. We believe we have drafted such a rule and that its economic consequences will induce most area landlords to comply with it voluntarily. We cannot predict that every landlord will voluntarily comply. Such landlords cannot directly be affected by the University. They can be affected by their student tenants. Hence, the University must act through its students in order to insure compliance by *all* area landlords; any alternative is illusory.

The complaint has been voiced by a few students that they do not want to be affected by the University. When analyzed, this complaint resolves into either or both of two observations. First, that the student doesn't want to be regulated by *anybody* and second that the student doesn't want to be regulated by the *University*. The first of these complaints has already been discussed. Legislatures and courts have already made the choice against discriminatory housing and a student's desire to live in discriminatory housing is nothing less than a desire to aid an illegal act.

Since we are *already* regulated the real question is do we want the *University* to ininvolve itself in this area?

The answer to the above argument is as follows: In a sense, the legislature has acted *in loco parentis* when it decided that housing must be open. The University's effort to make that decision meaningful might also be regarded as *in loco parentis*. But *in loco parentis* is a label and labels seldom advance analysis. The question is whether the University's action can bear a certain label, but whether the University has a valid and substantial educational goal. For instance, when a student cheats on a take-home exam few would object to University disciplinary sanctions. But when the University tells a student he must get his hair cut, most students woud object. The distinction between the two cases is obvious. Cheating on exams, whether on or off-campus, is directly related to the educational process—the University's goal. Hair length is not. A matter is hardly outside the scope of the University's legitimate interests when the educational process is involved. The educational process is what is involved in the housing policy. The quality of the student's education is di-

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PROPOSED RULE

I

The Open Housing Policy

It is the policy of The Ohio State University that rental housing be available to all of the University's students on equal terms without regard to race, religion, creed, color, or national origin.

II

The Open Housing Rule

a. (1) No student shall become a resident of any premises (whether registered or unregistered with the University) which is on the discriminatory housing list, as defined in subsection d.

(2) Upon a finding by the appropriate tribunal that a student has violated this subsection, with knowledge that the premises are on the discriminatory housing list, he shall be liable to recorded probation or suspension.

b. (1) If a student becomes a resident of any premises (whether registered or unregistered with the University) which is on the discriminatory housing list without knowledge of that fact he shall not continue his residence therein for more than thirty days after he receives notice to vacate from the Office of the Vice President for Student Affairs unless he is bound by a lease for a longer time, in which case he shall not continue his residence therein beyond the term required by such lease. The prohibition of this subsection does not apply to a student who resides in the premises at the time of the finding of discrimination, and who remains in the same unit.

(2) Upon a finding by the appropriate tribunal that a student has violated this subsection, he shall be liable to recorded probation or suspension.

c. (1) No student shall enter into any arrangement to become a resident of any premises (whether registered or unregistered with the University) which is on the discriminatory housing list.

(2) Upon a finding by the appropriate tribunal that a student has violated this subsection, with knowledge that the premises are on the discriminatory housing list, he shall be liable to recorded probation or suspension.

d. The discriminatory housing list shall consist of those premises which the Open Housing Panel has ordered to be placed on such list for the periods prescribed pursuant to Section VI.

e. A student is a person who is registered for course credit toward a University degree or who is seeking housing in preparation for registration and candidacy.

f. Any charge that a student has violated this rule shall be subject to a hearing, in conformity with due process, by the appropriate tribunal charged with the adjudication of violations of University rules.

* * *

IV

Complaints

a. Any student, the Vice President for Student Affairs, or the Director of Housing may lodge a complaint that a owner, landlord or the authorized agent of either has discriminated in the rental of housing to students on the grounds of race, religion, creed, color or national origin with the Office of the Special Assistant for Student Affairs within six months of the alleged act of discrimination.

b. The complaint shall contain a statement of the acts alleged to constitute the discrimination.

c. The Special Assistant shall use student investigators for the purpose of determining whether owners, landlords, or their authorized agents discriminate on the grounds of race, religion, creed, color, or national origin in the rental of housing.

V

The Hearing

a. Upon receipt of a complaint, the Special Assistant shall:

(i) Request the Open Housing Panel to convene a public hearing to determine whether the named owner, landlord, or an agent of either, discriminated against the University's students in the rental of housing on the basis of race, religion, creed, color, or national origin.

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Con: Proposal Not The Way

Before this subject can be discussed we must first decide what we are trying to accomplish. We must then discuss what is wrong with the way we are trying to accomplish that objective. We should then look at the best way to accomplish the desired end.

What are we trying to accomplish? We are trying to accomplish something much bigger than open housing. We are trying to give the opportunity to each person to achieve to the utmost of his ability. We then want that person to be able to enjoy, to the fullest, the benefits of his achievement. He can only have these opportunities and benefits if all men of like abilities are treated as equals.

The present programs of the government as administered, will not aid equality but will hinder its accomplishment. Whenever the government tries to legislate morals, it only drives the fears and hate deeper into the people holding them. These people must be given some higher reason why they are wrong. More government legislation is not that reason.

The present open housing laws are designed to take rights previously held by the majority and vest them in a minority. This is not a civil right but is a personal right of a few which diminishes the incentive of the first, the integrity of the second and the moral autonomy of both.

This country was built by people working hard so that they could more fully enjoy all the things which they wanted for themselves and their families. This law and others like it can destroy that incentive. If the people are not sure that the government will allow them to keep what they work for, then the reasoning goes, "why should we work?"

There is one other important reason why this law should not be allowed to stand. If an inspection is made of all the countries of the world one will find that where property rights are held in high esteem so, also, are human rights. Throughout history when the government takes property rights from the people human rights shortly follow.

This country became great by its people standing for right and doing right. The Bible says, "The wicked shall be turned into hell, and all nations that forget God" Psalm 9:17. This country became great by its people remembering God and living by his law. We must reaffirm his law and again start living by it or this country will be turned into hell as the Bible predicts.

The people must not only live by God but they must encourage others to do so. When the people of this country

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★ ★ ★ A BARRISTER FEATURE ★ ★ ★

Walker Report: 'Rights In Conflict'

Action By The Demonstrators

(Note: The following is a condensation of the Walker report issued in December of 1968 concerning activities during the democratic convention last summer. The entire report is some 230 pages with 87 additional pages of pictures. No attempt is made to present the documentation given or the specific details and the examples of the individual acts of violence by the police and the demonstrators. Such information is provided in detail in the report itself. Anyone interested in specific aspects of those events are urged to read the book in its entirety; the report is also interesting just for general information.)

Chicago:

"Rights in Conflict," a report submitted by Daniel Walker, Director of the Chicago Study Team, to the National Commission on the Causes and Prevention of Violence, is now available in hardback published by Grosset & Dunlap, New York, in December, 1968.

In the foreword to the book, the opening paragraph sets the stage: "The right to dissent is fundamental to democracy. But the expression of that right has become one of the most serious problems in contemporary democratic government. That dilemma was dramatized in Chicago during the Democratic National Convention of 1968 — the dilemma of a city coping with the expression of dissent." According to the committee, its purpose was "to present the facts so that thoughtful readers can decide what lessons come out of them; for it is urgent that any such lessons be speedily incorporated into American public life."

In the controversial summary of the report, Walker states what he thinks the lessons of Chicago are, as follows: "Police violence was a fact of convention week. Were the policemen who committed it a minority? It appears certain that they were—but one which has imposed some of the consequences of its actions on the majority, and certainly on their commanders. There has been no public condemnation of these violators of sound police procedures and common decency by either their commanding officers or city officials. Nor (at the time of this Report) . . . has any disciplinary action been taken against most of them. That some policemen lost control of themselves under exceedingly provocative circumstances can perhaps be understood; but not condoned. If no action is taken against them, the effect can only be to discourage the majority of policemen who acted responsibly, and further weaken the bond between police and community."

The Gathering Forces

Racial tensions have been high in Chicago in recent years. Riots broke out in 1966 and again in April, 1968 after Dr. Martin Luther King's assassination. Shortly after the April riots, Mayor Daley held a press conference in which he seemed to criticize the police department for their restraint, asserting that the police should shoot to kill arsonists and shoot to maim looters.

While the various factions within the party were preparing for convention week, anti-war activists and dissident groups of various sorts were considering plans to stage demonstrations. Many of those expected to join these demonstrations were supporters of Senators McCarthy, Kennedy and McGovern. Others viewed the Democratic party as unresponsive to the public will and inexorably connected with what they considered to be an inhuman war.

Among the dissidents planning to come in protest were violent revolutionaries, pro-Peking sympathizers, communists, anarchists, militant extremists, as well as pacifists, poor people's campaigners, civil rights workers and moderate leftwingers.

During the months preceding the convention, provocative and inflammatory statements, made in connection with activities planned for the forthcoming convention week, were published and widely disseminated through underground channels and by exposure in the general media. Numerous articles, speeches and disclosed conversations promised threatening acts of public disorder and terrorism which could not be responsibly dismissed. Those committed to such actions, however, appear to have been unable to combine a broadly based following nor a well-organized plan.

The National Mobilization Committee to End the War in Vietnam was formed in April, 1967 after two demonstrations against the war in New York City. Its chairman is 52-year-old David Dellinger and his efforts were successful in coordinating massive anti-war demonstrations in the past, such as the Pentagon march on October 21, 1967. National Mobilization officers began thinking about Chicago during the fall of 1967.

During the next several months preliminary planning was undertaken, and various dissident groups which had shown some interest in coming to Chicago worked out organizational positions. A national conference was called for March 22 to 24, 1968. Some 250 delegates were invited. However, a number of dissident organizations were not interested. A strong alliance with SDS or with black organizations never developed.

The emergence of McCarthy as a peace candidate and several small riots dampened their spirits, but the assassination of Senator Kennedy in June and the entrance of Humphrey into the campaign had the effect of somewhat revitalizing interest in convention-related demonstrations. National Mobilization took the reigns of organization and in a July 20 meeting in Cleveland definitely committed themselves to making plans for Chicago a reality. Decentralization however, made it difficult for Mobilization leaders to keep track of the actions planned by the various groups and the Chicago office never was able to establish a central focus for those who were to participate in the movement centers.

While plans were also being made by anti-war and other dissident groups for activities in Chicago during convention week, preparations were under way within the hippie communities for a massive convocation, a "Festival of Life." There was supposed to be a giant music fair, a nude-in on the beach, workshops of various sorts, including draft resistance, use of LSD, underground newspapers and other matters uniquely of interest to the drop-out community.

Immediately preceding the convention, there were several attempts by various groups to obtain permits from the city of Chicago for their activities. National Mobilization sought parade permits for several functions but the city would not consider at all a parade during nighttime and only one permit was eventually granted; and that only for an afternoon rally at the Grant Park bandshell on Wednesday, August 28.

The Yippies sought a permit for the use of park facilities to stage their Festival of Life, but no permit was issued. Promoters of the event, however, went ahead with final arrangements, trusting that an informal concession would be made as thousands gathered in the park over the forthcoming weekend. The Coalition for an Open Convention (COC) sought a permit to hold a rally in one of the parks in Chicago, but that request was denied. A suit was filed petitioning the United States District Court for an injunction to force the Chicago Park District to grant permission to COC to use Soldier Field for a rally on August 25. The presiding Judge ruled that because the actions of the Park District in granting permits are "legislative functions," the court had no authority to issue an injunction requiring the district to grant a permit to plaintiffs. The rally was cancelled.

Reaction By The Police

As demonstrators arrived, they would check into the National Mobilization office, or the movement centers, or Lincoln Park. They would pick literature and consider the events ahead.

How the City Prepared

In January, 1968, a Convention Planning Committee was set up by the Police Department to organize police planning and to coordinate the preparation of city, state and federal agencies. The city regularly received information concerning activities planned or threatened for the convention week which, if implemented, could have a direct impact on not only the convention but on the city itself. This information—which came from a variety of federal and local governmental agencies—was disseminated after evaluation to persons concerned with security measures at the decision-making level.

The Chicago Police Department is under the command of the Superintendent of Police, who reports directly to Mayor Daley. Under the Superintendent are three Deputy Superintendents in charge of Field Services, Staff Services and Inspectional Services. There are a total of about 12,000 men in the Police Department. About 10,000 of these are in the Bureau of Field Services, which was the division most directly involved in the convention activities.

On August 21, a comprehensive order was issued by the Chief Judge of the Circuit Court to cover mass arrest procedures. To implement this order, the State's attorney's office issued directives for processing large members of people through courts. While the County Jail was planned as the primary area of detention, additional space, such as the hangars at Midway Airport, was also designated to be available during the convention.

Lincoln Park: The Violence Begins

Lincoln Park is situated on an 11,085 acre strip of land between Chicago's Lake Shore Drive and Old Town. Beginning August 18, habitues were joined by the first contingent of Yippies and National Mobilization leaders who were present to recruit and train marshals for various convention week demonstrations. They practiced techniques to break and stall charges into their ranks while demonstrators escaped. Marshals were also schooled in first aid and in individual rights under arrest. On Friday, August 23, several hundred persons were reported in the park. On that day, Jerry Rubin and several followers released a pig named "Pigasus" in the Chicago Civic Plaza as their candidate for president. Legal aid was to be provided through the Legal Defense Committee, made up of volunteer lawyers and law students.

On Saturday morning, August 29, the temporary police command post in Lincoln Park swung into operation. That night the police began to enforce an 11:00 p.m. curfew in the park. Upon an announcement to that effect by the police, all but about 200 persons left. The park was forcibly cleared by the police and the crowd was eventually dispersed.

On Sunday morning, Lincoln Park was quiet; several hundred persons were present and there were no organized activities. At around 1:30 p.m., marchers left the park to go and picket the major hotels where the delegates were staying. The march was peaceful and after the downtown demonstration, a large group returned to Lincoln Park. Around five o'clock a flatbed truck tried to enter the park as a stage for a band, but was stopped by police. A crowd gathered a minor ruckus occurred and some arrests were made.

The 11:00 curfew was again

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Events Surrounding The Democratic Convention In Chicago

(Continued from page 5)

announced, but some intention to stay was voiced by the demonstration leaders. Despite the conflicting advice, most persons left the park at about 11 p.m. A large group started marching south along La Salle Street. They did not return to Linclon Park. When they approached an intersection that was blocked by police, they would simply turn and move down another street. Eventually the police, and the press and demonstrators formed opposing lines across the Michigan Avenue Bridge. The bridge was kept clear by raising and lowering the bridge. After the arrival of the police task force, the demonstrators dispersed.

At least a thousand persons had regrouped in the park despite repeated curfew warnings and the police began a major clearing operation with motorcycles and police lines. The crowd was pushed out of the park and into the side streets by a series of major confrontations involving frequent use of riot clubs by the police. Many persons ended up in emergency housing set up in churches and in such impromptu areas as courtyards. Gradually, the crowd dispersed and the violence ended.

Monday

At 11 a.m. on Monday, August 26, the Yippies staged a press conference in the park to announce that they had sent a telegram to the U.N. Secretary-General U Thant, charging that law and order had broken down in Chicago and demanding an "impartial observer." About 2:25 p.m. two leaders were arrested as they were discussing plans for a parade from the park to the Conard Hilton. Within minutes a group of 400 to 500 persons left Lincoln Park headed for Central Police Headquarters to protest the arrests. Several incidents also occurred Monday afternoon in Grant Park.

At about 9 p.m., the first large evening march moved out of Lincoln Park. A march on Wells Street by 9:30 p.m. had become unruly and about 50 persons were arrested. As the curfew hour passed in Lincoln Park a minor barricade was erected by the demonstrators there. After repeated warnings, around 12:30 the clearing of the park began with tear gas. The park was quickly cleared, but the demonstrators were forced out into the surrounding area. The police started clearing the streets and as the crowd fled, chaos and confusion traveled with them. By 2 a.m., there was little activity left to observe on the streets.

Tuesday

There were a number of marches on Tuesday, August 27, several meetings among the groups and with the city authorities, and a few minor incidents during the day. At approximately 7 p.m., a crowd estimated at 1,500 persons listened to Bobby Seale of the Black Panther Party and Jerry Rubin call for revolution in the United States. Several small marches (200-400 people) occurred during the evening, some in sympathy with striking Chicago Transit Authority members.

A group of clergyman established a vigil in Lincoln Park, but the police still intended to enforce the curfew. Three or four times, the police announced that the park was closed, but the people refused to leave. Tear gas was used by the police who later found a knife, an ice pick, a cork ball with nails driven into it and six or seven "pungi sticks" in the ground with sharpened edges turned upward near the barricade. The police kept advancing and shot more tear gas. The crowd poured into the surrounding area, angry and hostile, and throwing anything they could lay their hands on.

The police were subjected to constant, loud, and bitter taunting by the crowd. Many cars were stoned. The damage to police vehicles, private property and CTA buses was extensive, but the crowd itself was much smaller than on either Sunday night or Monday night (which was the peak as far as numbers were concerned).

Also Tuesday night from 1,000 to 1,500 demonstrators congregated across from the Hilton in the park. Substantial damage was done to the Hilton, itself. Also at this time, a rally was under way at the Coliseum as an "un-birthday party" to mock President Johnson's 60th birthday consisting of entertainment by folk-rock music groups and speeches. After this, a crowd of several thousand had gathered in Grant Park across from the Hilton. The police who had been working 12-hour shifts since Saturday were by now exhausted and finally sought relief by the National Guard. At about 3 a.m., 30 Guard vehicles carrying 600 men in full battle dress appeared, but no one explained that the Guard was there to relieve the tired police. The Guard stood its ground without any significant response—physical or verbal—to the demonstrators, despite a level of abuse that one Guard official calls "unbelievable." Around 4:30 a.m. the area calmed down finally as most of the demonstrators had left.

Wednesday

On the previous night, a permit had been granted by the Chicago Park District for a rally in the Grant Park bandshell from 1 to 9 p.m. Before the afternoon was over, the crowd had swelled to an estimated 8,000 to 10,000. Like the rally at the Coliseum, this one featured musical entertainment in addition to the usual anti-war litany. There is no question that the leader wanted and urged a march on the amphitheatre, and many persons in the crowd were similarly determined, whether legal or not.

Around 4 p.m. the first violence erupted near the bandshell when a hippie tried to lower the flag on a flag pole to halfmast, and the police moved in to arrest him. This lead to an open confrontation with the crowd. In the ensuing melee which took only twenty minutes, a total of 30 policemen were injured including cuts and contusions on the body as well as head wounds. Then the rally resumed.

At about 4:30 p.m., Dellinger announced that there was going to be an attempt to march nonviolently to the amphitheatre, site of the convention. The marchers, 5,000 to 6,000 strong, marched north to a police line which blocked their path. Negotiations ensued for about an hour, but the police refused to allow the march since no permit had been authorized. By about 6:30 the crowd dispersed and was told to re-group in front of the Hilton.

As the bulk of the disappointed marchers sought a way out of the park, the crowd began to build up in front of the Guard which was blocking the Congress Plaza bridge. The Guardsmen were attacked with oven cleaner and containers filled with excrement. Tear gas was used, but the wind carried the gas throughout the area. The crowd finally found an unguarded bridge and escaped from Grant Park.

The crowd joined a mule train of the Poor People's Campaign and marched down to the corner of the Hilton where it encountered a police line across Michigan Avenue. Soon the intersection at Balbo and Michigan was in total chaos and the crowd became increasingly ugly. A police line was then formed in back of the crowd and started advancing. There was no place for the crowd to go and a violent street battle ensued.

From the windows of the Hilton and Blackstone hotels, toilet paper, wet towels, even ash trays came raining down. With each new police attack and flurry of arrests, the crowd dispersed farther into the park and east on Balbo. By 8:15 p.m., the intersection was in police control. The police had been bombarded with bricks, cobblestones, plastic practice golf balls studied with nails, as well as plastic bags filled with human excrement. The Guard was called and took up positions to keep the street open and the police lines reformed. The big war was over, but police violence and police baiting were some time in abating. Indeed, some of the most vicious incidents occurred in this "post-war" period, in the form of individual encounters.

By 10:30 p.m., most of the action was centered once more in Grant Park across from the Hilton, where several hundred demonstrators and an estimated 1,500 spectators gathered to listen to the usual singing and shouting. Twice during the evening police and Hilton security officers went into the hotel and went to quarters occupied by McCarthy personnel—once to protest the ripping of sheets to bandage persons who had been injured and a second time to try to locate persons said to be lobbing ash trays out of the windows. But compared to the earlier hours of the evening, the rest of the night was quiet. By 12:20 a.m., Thursday, the crowd was considered under control.

The Police and The Press

Some Chicago police involved in controlling demonstrators made five general complaints about the press:

1. That they persisted in using lights which blinded them—making them better targets for missiles thrown by demonstrators;
2. That they refused to obey police orders and requests;
3. That they interfered with police performing their duties;
4. That they staged incidents two ways—by faking stories and by attacking demonstrators by their presence;
5. That their mode of dress made them difficult to distinguish from the demonstrators.

On the other hand in this emotional climate, with police tempers already shortened by conflicts with demonstrators, it was perhaps inevitable that incidents of police-press violence would occur. They did.

The McCarthy Suite Incident

Early Friday morning there was a confrontation in the Conrad Hilton involving hotel employees, guests, police, and National Guardsmen. The incident, which received nationwide publicity, was itself insignificant as compared to other violent events of the week. What makes it important is that it happened after almost all other activity had died down, and that many of the persons involved were working members of a presidential candidate's staff.

The support for and collaboration with protestors by many young McCarthy workers were resented by both the hotel officials and the police. Around 4 a.m. Friday the sidewalks below the hotel were being bombarded by ash trays, beer cans, etc., and spotters finally located the source as a McCarthy staff room. A couple policemen and a hotel security officer went up to the room and discovered that the windows were open, with the blinds all the way up and the draperies spread. A party had been in progress and the room was a complete mess.

The hotel security officer ordered the room emptied and locked since none of the named registrants were there. However, after this order was complied with, A McCarthy supporter was shoved into a card table by a policeman who wanted him to move faster. He lifted the table to strike the policeman, who hit him on the head with a nightstick, which split from the impact. The group then tried to go up to the floor where McCarthy was, but the hotel police would not let them, and the police began clearing the floor and a small scuffle ensued.

Police and National Guard units report that after the closing of the suite nothing more was thrown from the Hilton.

Later

Throughout Thursday night and Friday, the demonstrators were leaving Grant Park to return home. The convention week was over.

According to official police department records, a total of 192 policemen reported injuries in disturbance areas during the Democratic National Convention. Forty-nine policemen were hospitalized. More than three-fourths of the injuries were sustained on Wednesday, August 28. It is impossible to recapitulate demonstrator injuries because of the lack of records.

There was extensive use by the demonstrators of rocks, bricks and sticks, but also empty and filled cans, bags of urine, feces, and paint or ink, golf balls with nails impaled therein, knives, pieces of wood or shoes with imbedded razors, oven cleaner, acid, molotov cocktails and dart guns. A charge was also published that black widow spiders were used by the demonstrators.

Chicago policemen arrested 668 persons in connection with disturbances during the convention week. The majority of those arrested were under 26 years of age, male, residents of Metropolitan Chicago, and had no previous arrest record. Two-thirds of the arrests were made of persons ranging in age from 18 to 25, and men outnumbered women almost eight to one. Forty-three percent of the arrested were employed, 32.6 percent were students, and 19.9 percent were unemployed.

Revision of Courts —

(Continued from page 4)

Students and other interest groups, it was necessary to reduce the law student representation on the newly-envisioned court to two, rather than the three previously allotted. One will be a Senior, and will serve as Chief Justice. The other will be a Junior, and will be Chief Justice the following year. The Court will be composed of ten members altogether, but will normally sit in two separate panels. To hear cases involving graduate students, the panel will consist of the two law students and three graduate students. To hear cases involving undergraduate students, the panel will consist of the two law students and five undergraduates, no more than three of whom will be of the same sex. To lighten the workload thus imposed on the law student members, provision is being made for an alternate Justice from the law school. As before, law students will serve as Student Defender and Student Prosecutor before University Court.

DUE PROCESS

Aside from the significant changes in the structure and responsibility of the court, however, the major effect of the SJB report, when finally adopted, will be to guarantee rights of due process throughout the system which had only been known before in University Court. Among these are: the right to adequate notice of hearing date, the right to confront one's accuser (if the accuser comes under the jurisdiction of the Student Judicial System or appears voluntarily), and the right to have access to all evidence.

According to the weight of authority, students in such hearings are not entitled to all the due process rights of a civil proceeding—only to a fair hearing conducted according to an established practice with attention to a reasonable standard of fairness. With the establishment of the new student judicial system with its built-in procedural safeguards, judgments reached within the system should be safe from successful attack in civil courts. It is a meaningful contribution to the student community of the University, and one of which the law students involved should be proud.

Open Housing Rule —

(Continued from page 5)

(ii) Serve by registered mail upon the landlord, owner, or authorized agent in charge of the premises a copy of the complaint and of this rule.

b. The Special Assistant or the complainant may present evidence material to a determination of the charges and cross-examine witnesses, with or without the aid of counsel, at a hearing convened for the purpose by the Panel.

c. The Open Housing Panel shall, on the written request of the Special Assistant, conduct a public hearing no earlier than ten days after the making of the complaint and its notice of hearing to the Special Assistant, the complainant, and the party charged with discrimination, who shall be advised of his right to appear, to be represented by counsel, to present witnesses, and to cross-examine witnesses who testify.

VI

Findings

After considering only the evidence admitted at the hearing, the Open Housing Panel shall determine whether the owner, landlord, or the authorized agent of either of them has refused to rent on equal terms without regard to race, religion, creed, color, or national origin to all of the University's students. A refusal to rent shall include those situations where the owner, landlord, or authorized agent refuses to rent premises to a student who is gathering evidence to determine whether the owner, landlord, or authorized agent discriminates within the meaning of this rule.

If the Open Housing Panel finds by a preponderance of the evidence that there has been such a discriminatory refusal to rent, it shall enter a determination that the premises be placed on the discriminatory housing list.

Any premises placed on the discriminatory housing list shall remain on the list for the period prescribed by the Open Housing Panel, but it shall not be less than one year nor more than three years. However, in extreme circumstances, the Panel may prescribe a period of less than one year provided that its reasons are included in the record provided for in Section III. No premises shall be removed from the discriminatory housing list until: (a) the period prescribed by the Open Housing Panel has ended, (b)) a written pledge of compliance with this rule has been received from the landlord or owner of the premises, and (c) with reference to premises which are rented through an agent, (i) the owner or landlord has given the agent written instructions to comply with this rule, (ii) has submitted a copy of said instructions to the Open Housing Panel, (iii) has received the Open Housing Panel's approval of such instructions, and (iv) has pledged in writing to give such approved written instructions to all future agents.

If the Panel finds that the landlord or owner has breached a pledge previously given under this section the premises shall be placed on the discriminatory housing list for a period of not less than three years.

Roger Traynor, chief justice of the California Supreme Court, delivered the 1969 Law Forum Lecture on "Harmless Error." Pictured above is Justice Traynor during his lecture.

Moot Court Team —

(Continued from page 1)

before meeting CWR and Ashby and O'Connor defeated Ohio Northern and Toledo before losing to the eventual winner.

The finals in New York ended quickly for Ohio State as Ashby and O'Connor subcumbed to the University of New Mexico and the Hong Kong flu. Inspite of the team's quick demise, team members felt the trip well worthwhile; the competition was excellent and the judges were all experienced and well informed on the case.

At the final argument of the final round, a team from Georgetown University Law Center defeated a team from University of Pittsburgh School of Law before a seven-man with Mr. Justice Thurgood Marshall presiding. The Georgetown team also won the award for the best team oral argument, and the prize for the best brief.

In other Moot Court activity, the O. S. U. Regional Team of Peter Laylin, Nicolaos Paraskevopoulos, and Curt Griffith are preparing for the Sixth Circuit Regional Argument March 6th and 7th in Cleveland.

Although Ashby and O'Connor took the flu to New York which New York really didn't need since one out of five New Yorkers had the bug at that time, there were a few lighter moments. Dave Martin observed that "maybe the mini skirt was 'in' in Columbus, but the mini-mini was 'in' in New York;" Jim Turner spent several hours getting lost in the subways in an attempt to find his old apartment in Brooklyn Heights where he had lived for a year; Ashby and O'Connor sat around muttering shut up and deal.

Pro —

(Continued from page 5)

rectly affected by discriminatory housing patterns. The University has a legitimate interest in the quality of its students' education. Regulation in this area is not the same as regulation of hair cuts or sexual behavior.

The only way the University can act effectively to end housing discrimination is through regulation of students. Those still fearful of this regulation have said: why not simply get the legislature to enact stronger enforcement provisions of the existing law? Legislative action would have exactly the same effect as the proposed rule—it would open housing. There is no advantage in choosing legislative action over University action (both would operate in the same way); but there is a significant disadvantage: lobbying and getting a bill passed take time—lots of time. The demand for non-discriminatory housing expresses this nation's most urgent concern for the moral imperative of equality, a value which, not surprisingly, is enshrined in state and federal constitutions. The time for equality lies not three or four years hence. The time for equality should have been a hundred years ago.

Kron —

(Continued from page 4)

Kron was next brought before the court where the charge was read to him and he entered a plea of not guilty. He was then informed of his rights which included:

1. Proceedings shall be open unless requested closed by the defendant at least 48 hours prior to the time of the hearing.

2. You have the right to confront your accusers in open or closed court if that accuser is available or is within the jurisdiction of the student judicial system.

3. You have the right to present witnesses on your own behalf.

4. You have the right to cross examine.

5. You have the right not to incriminate yourself.

6. Only notorized statements will be accepted.

7. Both parties have the right of full discovery.

The date of the trial was set and Kron was given notice of the date. The sanctions involved were recommended expulsion, suspension, recorded probation or unrecorded probation.

The trial was held before six judges on January 9, 1969, with one judge having disqualified himself since he was a fraternity brother of Kron. The burden of proof was on the prosecution and the standard was beyond a reasonable doubt. A majority decision was required to convict, and in case of a tie the Chief Justice's vote counted as two votes. Weiner had asked permission to represent Kron before our court and the request was granted.

Defense counsel renewed his previous motions for the record and they were overruled again by the court. A court stenographer provided by the defendant was present to record a transcript of the proceedings. The prosecution presented its case, but the election booth worker from whom the extra ballots were obtained could not pick out Kron from the courtroom as the person she had given them to. After prosecution presented its case, defense's motion for a directed verdict was granted as defending attorney, Jerry Weiner, remarked, "truth always prevails."

Subsequent to the trial, the court on its own motion charged Kron with direct contempt of court in that he did purposefully disguise his facial and overall appearance by various means so as to interfere with the administration of justice and reflect upon the dignity of the court in the previous trial.

Notice of these charges was given Kron in person and a hearing was held on February 20, 1969. The burden of proof was on the court and the standard of proof and Kron's rights were the same as on the earlier trial. The possible sanctions involved were a fine of up to $50 and recommended expulsion, suspension, recorded probation or unrecorded probation. A list of the evidence and witnesses against him was furnished. Kron was held to be in contempt, fined $50 with $40 suspended, and unrecorded probation was recommended.

Speaking —

(Continued from page 2)

tered. I would suggest making Constitutional Law, now a required freshman course, a required junior course, and in its place substitute moot court. The moot court program should then carry a two quarter sequence in the freshman year of 2 credit hours each. This would reduce the overall freshman load by 2 credit hours which could be either reduced from the required number of freshman credit hours or more preferably it could be used to implement a 2 credit hour ethics course. The freshman level is the best place for an ethics course, not the senior level.

The moot court program should be more closely supervised by full time faculty members each and every quarter it is in existance. The junior year participants should be allowed to elect a 1 credit hour per quarter course in which advanced work is done as well as giving course credit to those seniors who presently are devoting countless hours into the program. If moot court is worth retaining it most assuredly should be worth course credit.

Due Process —

(Continued from page 4)

versity, (April 9, 1968), 392 F. 2d 728, 729.

It is usually considered that the relations between a student and a private university are a matter of contract. Only private associations have the right to obtain a waiver of due process rights before depriving a member of a valuable right, and those rights are so fundamental to the conduct of our society that the waiver must be clear and explicit. The state cannot condition the granting of even a privilege upon the renunciation of the constitutional right to procedural due process. *Dixon v. Alabama State Board of Education,* (August 4, 1961), 294 F.2d 150.

Dixon v. Alabama, supra., a 1961 decision, is the leading case in this area. Whenever a governmental body acts so as to injure an individual, the constitution requires that the act be consonant with due process of law. The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Due process requires notice and some opportunity for hearing before a student at a tax-supported college is expelled for misconduct. *Dixon v. Alabama,* supra., 155, 158.

The notice should contain a statement of the specific charges and grounds which, if proven, would justify expulsion under the regulations. The nature of the hearing should vary depending upon the circumstances of the particular case. By its nature, a charge of misconduct, as opposed to a failure to meet the scholastic standards of the college, depends upon a collection of the facts concerning the charged misconduct, easily colored by the point of view of the witnesses. In such circumstances, a hearing which gives the Board or administrative authorities of the college and opportunity to hear both sides in considerable detail is best suited to protect the rights of all involved.

This is not to imply that a full-dress judicial hearing, with the right to cross-examine witnesses, is required. Such a hearing, with the attending publicity and disturbance of college activities, might be detrimental to the college's educational atmosphere and impractical to carry out. Nevertheless, the rudiments of an adversary proceeding may be preserved without encroaching upon the interests of the college.

The student should be given the names of the witnesses against him and an oral or written report on the facts to which each witness testifies. He should also be given the opportunity to present to the board, or at least to an administrative official of the college, his own defense against the changes and to produce either oral testimony or written affidavits of witnesses in his behalf. If the hearing is not before the board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. *Dixon v. Alabama,* supra, 158-159.

These general rules form the basis of the present requirements with further refinements in recent cases. As to the notice requirement, students who were granted the opportunity to discuss a disciplinary matter with school officials but did not receive notice of the hearing because they had failed to keep the university advised of their change of address and reasonable efforts failed to uncover the correct address, have not been deprived of any constitutional rights when the university refused to readmit them. *Wright v. Texas Southern University,* supra.

The rules in *Dixon* do not mean that the student is entitled to the formality of a trial, in the usual sense of that term, but simply requires that he must be given a fair and reasonable opportunity to make his defenses to the charges and to receive such a hearing as meets the requirements of justice, both to the school and to himself. In short, the student at the tax-supported institution cannot be arbitrarily disciplined without the benefit of the ordinary, well recognized principles of fair play. *Wright v. Texas Southern University,* supra.

The hearing may be procedurally informal and need not be adversarial. *Wasson v. Trowbridge,* (Sept. 13, 1967), 382 F.2d 807, 812. We know of no legal authority that requires university officials to advise a student involved in disciplinary proceedings of his right to remain silent and to be provided with counsel. *Buttny v. Smiley,* (Feb. 14, 1968), 281 F. Supp. 280, 287. In fact, there is no general requirement that procedural due process in student disciplinary cases provide for legal representation, a public hearing, confrontation and cross-examination of witnesses, warnings about privileges, self-incrimination, application of principles of former or double jeopardy, compulsory production of witnesses, or any of the remaining features of federal criminal jurisprudence. Rare and exceptional circumstances, however, may require provision of one or more of these features in a particular case to guarantee the fundamental concepts of fair play. *Scoggin v. Lincoln University,* (September 19, 1968), U.S. District Court Western Missouri (en banc), 37 U.S. Law Week, 2187, 2188.

It must be kept in mind that this is a civil proceeding and unless the right to counsel in such a proceeding can be read into the Due Process clause of the fourteenth amendment or in some Federal Act it does not exist. *Gideon* and *In re Gault* just extend to criminal and semi-criminal cases. There is no court decision expressly extending the right of counsel to a student at a school disciplinary hearing. *Barker v. Hardway,* (April 10, 1968), 283 F. Supp. 228, 237. Where the proceeding is non-criminal in nature, where the hearing is investigative and not adversarial and the university does not proceed through counsel, where the individual concerned is mature and educated, where his knowledge of the events should enable him to develop the facts adequately through available sources, and where the other aspects of the hearing taken as a whole are fair, due process does not require representation by counsel. *Wasson v. Trowbridge,* supra, 812.

The only burden of proof required is that no disciplinary action can be taken on grounds which are not supported by any substantial evidence. *Scoggin v. Lincoln University,* supra, 2188. In *Grossner v. Trustees of Columbia Univeristy,* supra, 541, students were presumed to be innocent until their guilt had been clearly proven in the proceeding. Students were not deprived of procedual due process because the tribunal did not follow the rules of evidence usually applicable in judicial proceedings and chose not to recognize the privilege against self-incrimination. The tribunal can indicate an awareness that at times it is listening to hearsay evidence and is weighing it as such. *Goldberg v. Regents of the University of California,* (Februrary 28, 1967), 248 C. A. 2d. 867, 883-4. On the argument that they should adopt the same guarantees in their proceedings as a criminal court as a "matter of policy," the Columbia Law School Disciplinary Tribunal ruled that major deviations from their court rules would be outside their authority. *In re Reichbach,* (December 26, 1968), Columbia Law School Disciplinary Tribunal.

Once the facts have been found by the disciplinary body and the guilt has been established, punishment is then a matter of judgment and discretion within the recognized limits. A court's only inquiry relating to the punishment imposed is whether the punishment is within such limits and, if it is, did the authorities act arbitrarily or capriciously. *Buttny v. Smiley,* supra. The law indulges the presumption that school authorities act reasonably and fairly and in good faith in exercising the authority with which it clothes them, and casts the burden on him who calls their conduct into question to show that they have not been actuated by proper motives. *Barker v. Hardway,* supra.

CLEO —

(Continued from page 3)

law schools throughout the country, and (3) to provide an intensified 6-week program in the skills necessary for competitive law study for 40 Negro college seniors or graduates with a strong interest in law school.

The program will include courses in criminal law, legal writing, the documentary operation of selected commercial transactions and reading comprehension in the context of legal materials.

The 40 participants in the Ohio Valley summer program will be provided room and board and transportation expenses to Cincinnati and return up to a maximum level. A stipend will be paid each participant to help defray lost summer earnings for the six weeks of the program.

Further information about the program can be obtained from Professor John J. Murphy at the University of Cincinnati College of Law. More than 100 of the participants in the 1968 summer institute of CLEO are studying law this fall in about 25 schools across the nation.

Pincus —

(Continued from page 1)

each state to take it out of the hands of the judiciary and avoid any conflict between a judge's duty to supervise and the independence of counsel. Maybe the right should be extended to misdemeanor cases as well, and investigative, laboratory and research services should also be provided. Acquitted defendants should not have to pay anything, and should be made whole for loss of earnings, etc.

The present Judicare program of the OEO is only a long overdue start on the problem. Legal services alone will not eventually cure poverty; to that extent the program offers too much. However, that program also provides too little due to its tendency to concentrate on law reform instead of providing services to poor individuals. Justice is an individual phenomenon and doctrinally unimportant cases should not be turned down. The present $40 million funding for OEO is about one-fifth of what is needed, and at least the same amount is needed in the criminal area. Our society must vastly increase public funding, and it also needs group legal services by the organized bar (not endorsed as yet by the ABA). However, Pincus said that we must also preserve the independence of a free and active bar. There must be combination of legal services offices and the private bar.

Also, lawyers services which are not really needed should be eliminated and replaced by cheap administrative procedures. We must not be afraid to change the traditional functions of lawyers. An example of this is in the auto accident claims field where injured individuals are forced to sue giant insurance companies and usually wind up on the short end. The bar should also consider exempting most decedents from probate procedures, and implement instead a simpler and cheaper system.

One possible answer to these problems is the use of paraprofessionals intead of lawyers. For example, a lawyer is not needed in all the steps in rent-control and landlord-tenant problems. A group of legal administrators—legal secretaries, law clerks and court personnel —can fill out the forms and perform these duties just as well in many instances as full-fledged lawyers could.

Pincus also thinks that lawyers in general should be concerned with a complete overhaul of the lower courts. The physical facilities are shabby, unattractive and in terrible shape. This contributes to a loss of self-respect and sense of justice in a community. The judges should be furnished adequate facilities and a staff (legal administrators) properly trained and educated. The lower courts also should play a bigger role as a place to measure the performance standards of the bar and to standardize the qualities of legal services being provided. If the judges are too busy to do this, maybe a state inspector should be appointed to review the performance of the bar in court procedures and to make appropriate recommendations.

Lawyers also should become active in the reform of legal education. They must make sure the education is relevant. This is the primary responsibility of legal educators, but the practicing bar's view from the outside looking in the law schools should not be neglected. The law faculty's goals are not necessarily the same as the faculty's goal in other parts of the university, and law teachers must balance teacher interest and social interest and not just teach what they themselves are scholarly interested in.

The social sciences and the humanities must be brought more into the curriculum. Law school should be a continuation of a liberal education and not be preoccupied with legal jargon and the casebook approach. Law is just one of the many social sciences. Pincus does not advocate a longer period of legal training, but just better use of the present three years.

The law school curriculum should also put more emphasis on clinical training. There should be provided supervised experience in the administration of justice. Students should be doing lawyers' work in order to acquire a sensitivity to injustice. The lower courts offer a good opportunity in this and Student Practice Rules should be adopted by more states. Such programs to be effective must be administered by specially trained faculty in order to utilize all the available resources in the community.

Pincus also favors allowing each law school to administer its own bar examination under general supervision of a state agency. This State Agency would also conduct any hearing as to moral fitness that is required. He also favors compulsory clinical training involving work related to at least one felony and one misdemeanor, before admission to the bar.

Plan Activities

Law Fraternity Den

Phi Delta Phi

Phi Delta Phi continues to be the most socially active legal fraternity at Ohio State. Financed solely by dues of $7.50 per quarter for active members and $10 per quarter for pledges, an effort is made to provide activities of interest to both single and married law students.

The fall quarter dinner meeting was held at the Worthington Inn. It started at 6 p.m. with a solid hour of beer followed by a smorgasborg dinner and meeting, then the rest of the beer.

A fall rush party was held at Dick's Den for eligible juniors and seniors. According to a college rule, freshmen cannot rush until spring quarter. Pool, darts, beer and chips made up the program.

A TGIF party was held the Friday before Thanksgiving with the Phi Mu Sorority at The Castle, a new bar on campus.

On January 22, the winter quarter dinner meeting was held again at the Worthington Inn and new officers were elected. Jim Houfek is the new magistrate replacing Frank Woodside, Tom Tarpy is again Treasurer, Joe VanBuskirk is Historian, Rick Huhn and Jerry Murchinson are the social chairmen, the co-sergeant-at arms are John Moul and Greg Van Gundy, Curt Griffith is secretary, and Pete Laylin is rush chairmen.

On Friday, January 24, the PDP's and their guests attended the Columbus Checkers Hockey Game at the Fair Grounds in a group and then held a party afterwards.

A rush party is planned for the first week of spring quarter.

★ ★ ★

Tau Epsilon Rho

by Jeff Fromson

The members of Beta Chapter of TER made a clean sweep of the national scholarship awards. These awards were presented at a ceremony attended by Dean Rutledge. In addition to capturing the fraternity award for the highest scholastic achievement for an undergraduate chapter, many of our members won individual awards. Among the winners of cash awards and plaques were Marvin Kinstlinger who won the highest national honor, while William Schenk placed second. Charles Ledsky and David Selcer placed third and fourth, respectively.

The fraternity is proud of its academic record and is now in the process of planning its Spring social functions.

A. Frank Woodside is shown presiding over a dinner meeting of Phi Delta Phi at the Worthington Inn. The other officers are, from left, Milt Puckett—Social Chairman, Jack Pigman—Historian, Woodside—President, Curt Griffith—Secretary, and Clyde Barlow—Co-Sergeant at Arms.

★ ★ ★

Phi Alpha Delta

by Dan Loomis

Attempts to get permission for an Ohio Penitentiary tour have been blocked by riots and prison guard strikes, but we are still attempting to offer such a tour within this academic year. All in all, spring quarter should prove to be a fun and interesting quarter as far as our fraternity activities are concerned. Besides the regular Spring Freshman Rush Party on Saturday, March 29, we are investigating a fraternity trip down to Cincinnati's Playboy Club. This trip will be restricted to fraternity members, pledges, wives and dates.

During the spring quarter, we will also continue to hold our informal lunches every Wednesday at 12:30 over at Bradford Commons. The formal initiation of pledges will take place in April, and in May, we will hold our Annual Spring Picnic, which will be followed this year by a hayride. We of Phi Alpha Delta invite all unaffiliated law students to investigate and join the World's Largest Law Fraternity and see why it got that way.

ALI Summer Program In Wisconsin

The fifth annual ALI-ABA Summer Program for Young Lawyers will be devoted to Problems in the Practice of Law under the Securities Act of 1933 and Relevant Sections of the Securities Exchange Act of 1934.

Like the three previous Young Lawyers Summer Programs, the 1969 Course will again be held at the Law School of the University of Wisconsin, on the University's main campus in Madison, under the auspices of the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association, in cooperation with the University of Wisconsin Extension Law Department and Law School. The dates are June 15-21, 1969.

Traynor —

(Continued from page 1)

ing whether error was harmless or not. The appellate court also has a duty to guard against debasement of the judicial process. It should reverse even if the correct result was reached if a substantial right of the litigant has been affected. Everyone must be able to enter the court assured of a fair trial.

What then should the standard of proof be? Some courts have said that error is harmless if it is reasonably probable that the error did not affect the judgment. Judge Traynor feels that a much higher standard is needed, and that an error is not harmless unless it is highly probable that the error did not affect the judgment. Under such a standard, few judgments where error was committed could withstand reversal.

In the federal courts under Chapman v. California, the test for a federal constitutional error is whether the appellate court believes beyond a reasonable doubt that the error did not affect the judgment. This does not govern errors not of a constitutional dimension in federal court and has questionable control over state court decisions. Judge Traynor believes that the federal standard should be adopted and that any lesser test would cause the appellate court to be substituted for the trier of fact. Present courts seem to be to preoccupied with the substantial evidence test for general appellate review.

The ultimate question of whether the trier of fact was influenced is scientifically unanswerable. The only available direct evidence is from the judge or the jury, but such evidence is not permitted. However, some errors are so prejudicial as to be per se harmful, e.g. the trial court had no jurisdiction or the defendant in a criminal case was not given the right to trial by jury. Maybe all constitutional errors require reversal, but the Supreme Court has said that in some instances such errors may be harmless.

Coerced confessions or confessions obtained in violation of the Miranda Rules ordinarily call for automatic reversals. The court must look to the facts, also, to see whether the statement was exculpatory or inculpatory. Violation of the right to counsel is automatically reversible error in some cases. The appellate court must also be alert to signs of bias by the trier of fact. Even is the error is on a ruling by the judge on a question of law, it may bias the jury. Any bias has a high risk of prejudicial error. Conduct which influences the court emotionally is only rarely not prejudicial.

Appellate courts usually refrain from making automatic reversals since they assume that the trial courts will follow their guidelines in good faith. However, in some instances automatic reversals maybe necessary to keep the lower courts in line. Repeated errors question the integrity of the courts.

The error of admitting inadmissable evidence is harmless if the evidence is merely cumulative in content and probative effect. Admission of a coerced confession after admitting five good confessions is probably harmless error. In some cases the jury verdict indicates whether the error was harmless or not. When a jury returns a special verdict, e.g., it is easy to see whether or not the jury found those specific facts anyhow. Even in some cases of a general verdict where lesser included offenses are involved, clues maybe given as the effect of the error on the judgment.

Other doctrines also enter into this area. The doctrine of invited error prevents the party who caused the error from complaining about it. This prevents a litigant from hedging against a possible adverse determination. Also if a party's rights are endangerer by others but he does not take available measures to counteract the effect, he may have been found to have waived that right.

Journal Has New Officers

Due to the loss of several members through graduation at the end of fall quarter, the Ohio State Law Journal staff elected new officers to serve the remainder of the school year.

Thomas J. Shumard is the new Editor in Chief; Jack R. Pigman, Jr., is the Managing Editor; and Allen D. Clark is serving as Issue Planning Editor. David R. Barnhizer, Michael S. Linn, and Jack R. Pigman, Jr. are newly elected members of the Board of Editors.

Alumni Notes

HARRY N. LEMBECK, '67, is presently stationed with the 9th Marine Amphibious Brigade in Vietnam, though occasionally his cases take him to Okinawa, Japan, and Taiwan. As a lawyer in the Marine Corps he has handled everything from simple unauthorized absence (AWOL) to murder, assault, rape, and cowardice in the face of the enemy.

* * *

LT. COL. JAMES R. DUPLER, '48, Arlington, Virginia, received his third award of USAF commendation medal on his retirement from the Air Force.

* * *

ROBERT M. DUNCAN, '52, was elected in November as a Judge on the Ohio Supreme Court.

* * *

PAUL W. BROWN, '39, was elected Attorney General of Ohio in November.

* * *

WILLIAM SAXBE, '48, was elected to the U.S. Senate from Ohio in November.

* * *

MICHAEL H. AUSTIN, '23, Columbus, was chosen as Legionnaire of the Year by the 12th District of The American Legion and also serves as Judge Advocate of this District.

* * *

HOMER M. EDWARDS, Ironton, has been named president-elect of The Ohio State University College of Law Alumni Association to take office as president in 1970.

* * *

PAUL BURSON, '48, was elected a member of the Ohio Bar Executive Committee for the next three years from District 5 of the Ohio Bar Association. He completed his term as a member of the House of Delegates in June, 1968. Mr. Burson has just completed his 2nd term as President of the Wyandot County Bar Association.

* * *

NICK J. MILETI, '56, is the new owner of the Cleveland Barons Hockey Club.

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JUDGE ROBERT E. LEACH, '35, Columbus, who has served on the Franklin County Court of Common Pleas since 1954, was named to the 10th District Court of Appeals. He is a former Columbus Assistant City Attorney and former Chief Counsel to the Ohio Attorney General.

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JUDGE CLIFFORD E. RADER, '50, Columbus, of the Columbus Municipal Court, was named to the bench of the Franklin County Court of Common Pleas.

* * *

JAMES A. PEARSON, '53, Columbus, an assistant in the Franklin County Prosecutor's office, was named to the Columbus Municipal Court bench. He has been with the prosecutor's office for seven years and was Chief Deputy and General Referee for seven years in the Franklin County Probate Court.

* * *

LEO P. STARK, '50, for the past two years the public member and chairman of the Columbus Regional Board of Review of the Bureau of Workmen's Compensation, was named to the Columbus Municipal Court. He served as an Assistant Ohio Attorney General and has been in private practice of law.

* * *

PAUL H. COLEMAN, '68, Columbus, past editor of The Barrister, is working as an attorney for the Franklin County Welfare Department and recently became engaged to Miss Deborah Dye of Columbus.

* * *

LEE HINSLEA, '15, Cleveland, is starting a new law career at the age of 76 with the new firm of Hinslea, Reminger and Reminger. He has practiced admiralty law for 52 years in Cleveland and had been a senior partner with McCreary, Hinslea and Ray, having served with that firm since 1916. The new firm will provide a transportation and corporate law service.

FRANK E. REDA, '54, Columbus, First Assistant to the Columbus City Attorney, was appointed to the Columbus Municipal Court bench.

* * *

FREDERICK T. WILLIAMS, '52, Westerville, Chief Deputy in the Franklin County Probate Court, was appointed to the Columbus Municipal Court bench.

* * *

D. EDGAR BARKELOD, '54, Columbus, was named Chief Counsel to the Columbus City Attorney. He was appointed to the City Attorney's Office in 1967.

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ALBA WHITESIDE, '54, Columbus, Chief Counsel to the Columbus City Attorney for six years, was elected Judge of the Franklin County Common Pleas Court in November.

* * *

HAROLD P. ZELKO, '33, Professor of Speech at The Pennsylvania State University since 1936, retired in September, 1968. For the immediate future and an indefinite period, he will devote most of his time as consultant to Famous Schools for whom he will be developing a series of programs and courses in speech and communication. Mr. Zelko will continue his work as a general consultant to business and government.

He is past president of the National Society for the Study of Communication; Fulbright lecturer in the Netherlands; lecturer and seminar director at many universities and organizations in the U.S. and Europe. He has also authored six books, two of which are translated and published in The Netherlands and two in Japanese.

* * *

JOHN J. DUFFY, JD '51, Judge of the Court of Appeals for the past eight years, is now a partner in the law firm of Harris, Duffey, Leas & Strip in Columbus, Ohio. Prior to his judgeship he was a professor at the College of Law, Ohio State University. Associates of the new firm include John Z. Fargo and John Wm. Hoppers.

Alumni Deaths

ROGER SULLIVAN, '36, Springfield, age 57, died October 26, 1968. He had been an Assistant Ohio Attorney General and had headed the Clark County Democratic Organization in 1950-52 and 1960.

* * *

MICHAEL H. CONRAD, '24, Canton, age 70, died October 31, 1968. He had retired from active practice about six years ago.

* * *

EMMITT L. CRIST, '27, Circleville, age 66, died November 23, 1968. He served on the Pickaway County Common Pleas Court bench from 1945 to 1947; was that county's prosecuting attorney from 1928 to 1932, and was a past president and secretary of the Pickaway County Bar Association.

* * *

EMERSON C. WAGNER, '22, New Lexington, age 70, died December 14. He had retired from practice in 1956. He was city solicitor for New Lexington for 25 years and was Perry County prosecuting attorney in 1928.

* * *

GEORGE D. NYE, '22, Waverly, Ohio.

* * *

EUGENE P. BROWN, '53, Columbus, Ohio.

* * *

ARONHOLD C. SCHAPIRO, Portsmouth, Ohio.

Law Day —

(Continued from page 1)

Al Waslohn's eight-piece group will provide the music. Tickets for alumni and faculty are $15 per couple, and $10 per couple for students.

John Mitchell, Attorney General of the United States, will present a major policy speech at the Law School on May 1, Law Day U.S.A.

Faculty Notes

PROFESSOR ERVIN POLLACK is currently a consultant to the U.S. State Department on Central American Common Market Publications. In December of 1968 he spent ten days in El Salvador and Guatemala in connection with this program and plans to participate in a "seminario" on the common market project, sponsored by the Organization of Central American States (ODECA) in San Salvador in March, 1969.

Professor Pollack has recently published an article entitled "The Role of Legal Method in Forming Social Organization," Archiv Fur Richts und Social Philosophie, Beihaft Neve Folge NRS, 73 (1968); and his book on Jurisprudence should be completed by June, 1969.

* * *

PROFESSOR LAWRENCE HERMAN returned this quarter from the University of Michigan Law School where he was a visiting professor from August through December of 1968. Last July he was a panelist at a conference on Criminal Procedure sponsored by the Michigan Institute of Continuing Legal Education, and also made a presentation to the Ohio Crime Commission concerning the constitutional aspects of bail. In November he delivered a speech to the Washtenau County League of Women Voters on "The Family Court Concept," and Professor Herman is currently serving as a member of the Program Committee of the Association of American Law Schools.

Alumni and Non-Alumni Totals Listed

1968 Campaign Nets $139,330 for School; Alums Donate Over One Third of Total

OHIO: Adams, Alumni 10.-00, Total 10.00; Allen, Others 385.50, Total 385.50; Ashland, Alumni 27.00, Total 27.00; Ashtabula, Alumni 10.00, Total 10.00; Athens, Alumni 220.00, Total 220.00; Auglaize, Alumni 35.00, Others 13.00, Total 48.-00; Belmont, Alumni 210.00, Total 210.00; Brown, Alumni 10.00, Total 10.00; Butler, Alumni 90.00, Others 100.00, Total 190.00; Champaign, Alumni 40.00, Total 40.00; Clark, Alumni 265.00, Total 265.00; Clinton, Alumni 2.50, Total 2.50; Columbiana, Alumni 105.00, Others 10.00, Total 115.00; Coshocton, Alumni 175.00, Others 50.00, Total 225.00; Cuyahoga, Alumni 7,556.41, Others 17,097.80, Total 24,654.21; Darke, Alumni 20.00, Total 20.00; Defiance, Alumni 85.00, Others 5.00, Total 90.00; Delaware, Alumni 185.00, Total 185.00; Erie, Alumni 30.00, Total 30.00; Fairfield, Alumni 246.50, Others 27.50, Total 274.00; Franklin, Alumni 20,941.23, Others 26,806.63, Total 47,747.86; Fulton, Alumni 210.00, Total 210.00; Gallia, Alumni 10.00, Total 10.00; Greene, Alumni 195.00, Total 195.00; Guernsey, Alumni 35.00, Total 35.00; Hamilton, Alumni 555.12, Others 3,443.37, Total 3,998.49; Hancock, Alumni 25.00, Others 15.00, Total 40.00; Hardin, Alumni 30.00, Total 30.00; Henry, Alumni 70.00, Total 70.00; Holmes, Alumni 61.00, Total 61.00; Huron, Alumni 15.00, Total 15.00; Jackson, Alumni 25.00, Total 25.00; Jefferson, Alumni 670.00, Total 670.00; Knox, Alumni 167.-50, Total 167.50; Lake, Alumni 35.00, Total 35.00; Lawrence, Alumni 27.00, Total 27.-00; Licking, Alumni 70.00, Total 70.00; Logan, Alumni 10.00, Others 50.00, Total 60.00; Lorain, Alumni 225.00, Others 2.50, Total 257.50; Lucas, Alumni 2,629.83, Others 125.-00, Total 2,754.83; Madison, Alumni 30.00, Total 30.00; Mahoning 587.00, Total 587.-00; Marion, Alumni 315.00, Total 315.00; Medina, Alumni 50.00, Total 50.00; Mercer, Alumni 140.00, Total 140.00; Miami, Alumni 51.00, Total 51.00; Montgomery, Alumni 1,519.00, Others 12,907.43, Total 14,426.43; Muskingum, Alumni 228.00, Total 228.00; Ottawa, Alumni 35.00, Total 35.00; Paulding, Alumni 20.-00, Total 20.00; Perry, Alumni 5.00, Total 5.00; Pickaway, Alumni 100.00, Total 100.00; Pike, Alumni 10.00, Total 10.-00; Preble, Alumni 10.00, Total 10.00; Putnam, Alumni 20.-00, Total 20.00; Richland Alumni 902.00, Total 902.00; Ross, Alumni 230.00, Total 230.00; Sandusky, Alumni 85.00, Total 85.00; Scioto, Alumni 280.00, Total 280.00; Seneca, Alumni 72.50, Others 7.50, Total 80.00; Shelby, Alumni 50.00, Total 50.00; Stark, Alumni 667.00, Total 667.00; Summit, Alumni 1,-075.00, Others 5.00, Total 1,-080.00; Trumbull, Alumni 95.-00, Total 95.00; Tuscarawas, Alumni 270.00, Total 270.00; Union, Alumni 205.00, Total 205.00; Van Wert, Alumni 10.-00, Total 10.00; Washington, Alumni 25.00, Total 25.00; Wayne, Alumni 60.00, Total 60.00; Williams, Alumni 75.00, Others 5.00, Total 80.00; Wood, Alumni 120.00, Total 120.00; Wyandot, Alumni 2.50, Total 2.50.

Grand Total, Alumni $42,-703.09, Others $61,056.23, Total $103,759.32.

OUT-OF-STATE: Virgin Islands, Alumni 50.00, Total 50.00; Alabama, Alumni 1.00, Total 1.00; Alaska, Alumni, 50.00, Total 50.00; Arizona, Alumni 120.00, Total 120.00; California, 236.00, Total 236.-00; Los Angeles, Alumni 50.00, Total 50.00; San Francisco, Alumni 100.00, Others 310.00, Total 410.00; Connecticut, Alumni 10.00, Others 5.00, Total 15.00; District of Col. Alumni 1,755.00, Others 55.00, Total 1,810.00; Florida, Alumni 184.50, Others 20,025.00, Total 20,209.50; Illinois, Others 4.00, Total 4.00; Chicago, Alumni 230.50, Others 10.00, Total 240.50; Indiana, Alumni 65.00, Others 10.00, Total 75.00; Kansas, Alumni 5.00, Total 5.00; Maine Alumni 10.-00, Total 10.00.

Maryland, Alumni 50.00, Total 50.00; Massachusetts, Alumni 10.00, Total 10.00; Michigan, Alumni 154.00, Others 233.75, Total 387.75; Minnesota, Others 3.75, Total 3.75; Missouri, Alumni 13.00, Total 13.00; New Jersey, Alumni 45.00, Others 1.00, Total 46.00; New Mexico, Alumni 25.00, Total 25.00; New York, Alumni 400.00, Others 355.00, Total 755.00; New York City, Alumni 1,407.50, Others 1,527.00, Total 2,934.50; North Carolina, Alumni 25.00, Others 25.-00, Total 50.00; Pennsylvania, Alumni 82.50, Others 7,750.00, Total 7,832.50.

Washington, Alumni 10.00, Total 10.00; West Virginia, Alumni 15.00, Total 15.00; Mil. Service, Alumni 125.00, Total 125.00; Mexico, Alumni 2.00, Total 2.00; India, Alumni 25.00, Total 25.00.

Total, Alumni $5,256.50, Others $30,314.50, Total $35,-571.00.

Grand Total, Alumni $47,-959.59, Others $91,370.73, Total $139,330.32.

OHIO TOTALS: 1968, Alumni $42,703.09, Others $61,056.23, Totals $103,759.32; 1967, Alumni $41,802.91, Others $39,622.22, Totals $81,425.-13.

OUT OF STATE TOTALS: 1968, Alumni $5,256.-50, Others $30,314.50, Totals $35,571.00; 1967, Alumni $6,-350.00, Others $2,462.50, Totals $8,812.50.

GRAND TOTALS: 1968, Alumni $47,959.59, Others $91,370.73, Totals $139,330.-32; 1967, Alumni $48,252.91, Others $42,084.72, Totals $90,-

Non-Alumni Friends Also Donate Funds

Non-Alumni Givers were: Mrs. Janet H. Adams, Alcoa Foundation, Mr. and Mrs. R. Brooke Alloway, Mrs. Reba J. Alton, Anonymous, Mrs. Dorothy G. Ballou, Mrs. Jo Ann Blaine, Martin E. Blum, Mrs. Onda M. Booker, Mr. and Mrs. Mark Bowsher, Buckeye Steel Castings Co., Mrs. Joanna L. Cavendish, Cleveland Ins. of Electronics, College of Law Senior Class, Women's Auxiliary of the Col. Bar Assn., Mrs. Shirley Coplan, Mrs. Rita R. Cornrich, Mrs. Shirley Crampton, Mrs. Patricia K. Curphey, Jacob Davis, Dispatch Charities, Mrs. Elizabeth Drinko, Mrs. Florence W. Ebersold, John Eckler, Mrs. John C. Epping, Mrs. Pearl B. Feibel.

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Random Profile: ROGER SMITH

(Note: This is a new feature of the Buckeye Barrister. In each issue we will have a profile of a College of Law graduate, selected at random. If you would like to be brought up to date on any other Law Alumnus, write Dean Ivan C. Rutledge.)

Roger is not only one of our outstanding alumni but is a 100% Ohio Stater. He received his B.Sc. in Business Administration in June, 1938, his J.D. in June, 1940 and on July 1, 1940 married Betty Snell (Smith) who received her undergraduate degree in 1939.

As a student he was active in extra-curricular affairs as well as being superior academically. He was President of the Sophomore Class as an undergraduate. In the College of Law he was President of the Freshman and Junior Classes and was Editor-in-chief of the Ohio State Law Journal..

Roger is a member of Delta Theta Phi, legal fraternity, and Order of the Coif.

In his professional career he has also received many honors, including being the 76th President of the Toledo Bar Association in 1954 and President of the Ohio State Bar Association for the term beginning July 1, 1964.

Roger has also given much time to his Alma Mater, having served as President of the Toledo Alumni Club, Development Fund Campaign Chairman for Lucas County and President of the College of Law Alumni Association. He currently serves on the National Council of the College of Law.

He is a member of the law firm of Eastman, Stichter, Smith and Bergman, Toledo, Ohio. This, by the way, is all Ohio State, all of the partners being graduates of our College of Law.